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DPD-7217-60

26 September 1960

**MEMORANDUM FOR THE RECORD**

**SUBJECT:** Concurrence in Clarification of Contract No. PO-660 with  
Eastman Kodak Company, Project CHALICE

1. This memorandum contains a recommendation submitted for concurrence of the undersigned. Such recommendation is contained in Paragraph 7.
2. The subject contract provides for the furnishing of all necessary labor and incidental materials required to operate and maintain the film processing plant at Rochester, New York, from 1 October 1955 to 30 June 1961.
3. Contract No. PO-660 is a time-and-material type under which funds have been allocated on a fiscal year period basis with the stipulation that amounts payable under the contract for a period shall not exceed the amount allocated for such period without written authorization from the Contracting Officer. This stipulation and the amounts allocated to the contract are set forth in the Consideration and Payment clause of the contract, as follows:

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work, for the period 1 July 1958 to 30 June 1959. The total amounts payable to the Contractor under this contract for said periods shall not exceed the above amounts without written authorization from the Contracting Officer. The Contractor is authorized to expend or obligate in furtherance of its performance hereunder an

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and ending 30 June 1960. The Contractor agrees to indicate the Project to which charges invoiced hereunder apply. Additional sums may be authorized for expenditure hereunder from time to time during the term of this contract to meet the requirements of the Government.

4. The contract is one essentially for the operation of a captive facility (with R & D and extreme security characteristics) for an indefinite period of years, the need for which still exists. Funds have been allocated

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thereto every fiscal year and all payments to the contractor have been made only from funds current during the fiscal year period within which services were performed. Restricting payments from current allotments in this manner has resulted in funds remaining unexpended at the expiration of each fiscal year during the term of the contract. As of 30 June 1960, these unexpended funds total some \$360,000.

5. Neither the Contracting Officer nor the contractor was aware that in the fiscal administration of the contract all fiscal year funds remaining unexpended at the close of a period were considered unavailable for further payments under the contract. Therefore, in establishing budget estimates and in negotiating the contract price for the period 1 July 1960 to 30 June 1961, it was assumed that the unexpended balance of approximately \$360,000 could continue to be used for contract payments. This assumption, however, has resulted in the Fiscal Year 1961 budget and contract allocation being understated by this amount.

6. Since the extent of project operations can be reasonably estimated only on a year-to-year basis, it has been necessary to allocate funds to the contract in the same manner, although a continual requirement for the contractor's services exists. Allocation of funds to the contract by fiscal years therefore has been a method of financing the contract and was not intended to limit expenditures or commitments by the contractor to funds current in any particular fiscal year.

7. In view of the foregoing, it is considered to be in the best interest of the Government to clarify the intent of the contract and remove any implication restricting payments from only current fiscal year allotments. Therefore, since Fiscal Year 1959 and 1960 funds allotted to the contract are valid for payment purposes, it is recommended that the funds allotted to the contract for the periods 1 July 1958 through 30 June 1959 and 1 July 1959 through 30 June 1960 be used for payment of contractor's invoices covering work and services through 30 June 1961. This will permit use of approximately \$260,000 of unexpended funds already obligated to the contract. It is further recommended that this memorandum serve to clarify the contract and that an amendment to the contract not be issued for this purpose.

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## CONCURRENCES:



Controller, DPD

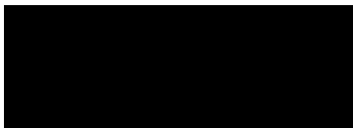
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*Asst. Gen'l Counsel* 9/26/60  
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